



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

CH

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/412,256	10/05/99	SCHMIDT	C 19384/9069

QM22/1024

GERALD L FELLOWS ESQ
MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCON AVE
MILWAUKEE WI 53202

EXAMINER

TAWFIK, S

ART UNIT	PAPER NUMBER
----------	--------------

3721

17

DATE MAILED: 10/24/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/412,256

Applicant(s)

SCHMIDT, CHARLES LOUIS

Examiner

Sameh H. Tawfik

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2000.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 24-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-10,12-20,22 and 23 is/are rejected.
- 7) ☒ Claim(s) 3, 5, 11, and 21 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) _____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election of the invention of Group I (claims 1-23) in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 24-29 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in Paper No. 6.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 6-10, 12-20, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buck et al. (4,673,382) in view of Bond (4,676,113).

Buck discloses a separation finger apparatus for removable insertion into a stream of web material comprising a separation finger (22); a translation member (via rods 73, 74, 75) mounted for rotation about a first axis, the translation member being coupled to the separation finger and in translating engagement therewith (Figs. 1-5); the translation member and the pivot member being rotatable with respect to one another to rotate the separation finger. Buck does not disclose a translation member having a length along which the separation finger can translate nor

Art Unit: 3721

a pivot member rotatably coupled to the separation finger nor the translation member and the pivot member being rotatable with respect to one another to simultaneously translate and rotate the separation finger. However, Bond discloses a pivot member (shaft 52) rotatably coupled to the separation finger (48) for rotation about an axis; a translation member (plate 26) having a length along which the separation finger can translate (via slot 36); the translation member and the pivot member being rotatable with respect to one another to simultaneously translate and rotate the separation finger in a range of positions upon the length of the translation member between and including a retracted position and an extended position (via when the translation member 26 moves from position A to position B, all the other mechanical parts move simultaneously with it including the pivot member 52) see for example (Figs. 1 and 3; column 1, lines 59-68) to move the finger in a controlled motion (column 1, lines 7 and 8).

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to have modified Buck's separation finger apparatus by having provided a pivot member rotatably coupled to the separation finger for rotation about an axis and a translation member having a length along which the separation finger can translate and the translation member and the pivot member being rotatable with respect to one another to simultaneously translate and rotate the separation finger in a range of positions upon the length of the translation member between and including a retracted position and an extended position, as suggested by Bond, in order to move the finger in a controlled motion.

Regarding claim 2: Buck discloses the pivot member (77 and 78) being mounted for rotation about another axis at a second location on the pivot member (via the two ends of the pivot member 77 and 78); see for example (Figs. 4 and 5).

Regarding claims 4 and 19: Buck does not disclose the translation member comprises an element having an aperture. However, Bond discloses that the translation member (26) comprises an aperture (36) and at least a part of the separation finger (48) being secured within and adapted to translate within the aperture (Fig. 3) to move the finger in controlled motion.

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to have modified Buck's separation finger apparatus by having the translation member comprise an aperture and at least a part of the separation finger being secured within and adapted to translate within the aperture, as suggested by Bond, in order to move the finger in a controlled motion.

Regarding claim 6: Buck discloses a pivot shaft with the translation member being mounted to the first pivot shaft (Figs. 1-5).

Regarding claims 7 and 8: Buck discloses a pivot member (77 and 78) being mounted to a pivot shaft and a second pivot shaft (via the ends of the pivot members Figs. 1-5).

Regarding claims 9, 10, and 16: Buck discloses the separation finger (22) and the translation member (via 73, 74, and 75) are secured against rotation with respect to one another, see for example (Figs. 1-5).

Regarding claim 12: Buck discloses the separation finger (22) has a proximal end to which is coupled the translation member (73 and 74) and a distal end for insertion into the stream of web material (Figs. 1-5).

Regarding claim 13: Buck discloses an orbit axis located a distance from the pivot axis (via the bottom end of rod 79; Figs. 1-5); the separation finger having an extended position and a retracted position (Figs. 1-5). Buck does not disclose the movement of the separation finger

through an arc between its extended and retracted positions. However, Bond discloses the movement of the finger (48) through an arc between its extended and retracted positions (via the slot 36 in an arc shape) to move the finger in a controlled motion (column 1, lines 7 and 8).

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to have modified Buck's separation finger apparatus by having the finger move through an arc between its extended and retracted positions, as suggested by Bond, in order to move the finger in a controlled motion.

Regarding claim 15: Buck discloses the translation member axis and the orbit axis are in fixed relationship with one another (Figs. 1-5).

Regarding claim 17: Buck discloses that the separation finger (22) is engaged to the translation member near the pivot axis of the separation finger (Figs. 1-5).

Regarding claim 18: Buck discloses that the translation member (73 and 74) comprises at least one elongated rod mounted for rotation about the translation member axis (Figs. 1-5); the separation finger (22) coupled to at least one elongated rod to translate there along in the orbit of the separation finger, see for example (Figs. 1-5).

Regarding claims 20 and 22: Buck discloses that the translation member (73 and 74) is rotatably secured at the translation member axis to a pivot shaft and a second pivot shaft (via the end of the rods 73 and 75).

Allowable Subject Matter

Claims 3, 5, 11 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 13 and 23 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 28 July 2000 have been fully considered but they are not persuasive.

Applicant argues that Buck discloses a separation finger rotates in place and does not travel "through an arc between its extended and retracted positions". However, Bond discloses the movement of the finger (48) through an arc between its extended and retracted positions (via the slot 36 in an arc shape and pivots about shaft 52) to move the finger in a controlled motion (column 1, lines 7 and 8). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to have modified Buck's separation finger apparatus by having the finger move through an arc between its extended and retracted positions, as suggested by Bond, in order to move the finger in a controlled motion.

Applicant also argue that Buck does not disclose "simultaneous translation and rotation between extended and retracted positions". However, Bond discloses (via when the translation member 26 moves from position A to position B, all the other mechanical parts move simultaneously with it including the pivot member 52) see for example (Figs. 1 and 3; column 1, lines 59-68). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to have modified Buck's separation finger apparatus by having the pivot member being rotatable with respect to one another to simultaneously translate and rotate the separation finger in a range of positions upon the length of the translation member between

Art Unit: 3721

and including a retracted position and an extended position, as suggested by Bond, in order to move the finger in a controlled motion.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

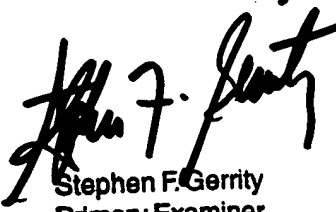
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (703) 308-1789. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ST
October 11, 2000


Stephen F. Gerrity
Primary Examiner